IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8069 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MADANLAL THANAJI KHICHI - Petitioner(s)

Versus

STATE OF GUJARAT THR' SECRETARY & 3 - Respondent(s)

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Appearance :

MR VAIBHAV A VYAS for Petitioner No(s).: 1.

RULE SERVED BY DS for Respondent No(s).: 1,2.

Mr.P.D.Bhate, AGP for Respondent No(s).: 3.

M IA SHAIKH for Respondent No(s).: 4.

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CORAM : HON'BLE MR.JUSTICE SHARAD D.DAVE

Date : 15/07/2005

ORAL JUDGMENT

1. By filing this petition, the petitioner detenu has challenged the detention order dated 18.03.2005 passed by the District

Magistrate, Vadodara in exercise of the powers conferred upon her under sub-section (2) of Section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 ("the Act" for short), as, the District Magistrate, Vadodara acting under the Act arrived at the subjective satisfaction that it was necessary to prevent the detenu from acting in any manner prejudicial to the maintenance of supplies of essential commodities like kerosene of public distribution system which is essential to the community.

2. Along with the detention order, the detenu was also served with the grounds of detention of the same date.

3. Heard the learned advocate appearing for the petitioner Mr.U.A.Vyas, learned AGP Mr.Bhate for respondent nos. 1 to 3 and Mr.M.A.Shaikh for respondent no.4. Affidavit-in-reply filed on behalf of respondent no. 2 and counter affidavit on behalf of the Union of India were also taken into consideration.

4. Learned advocate appearing on behalf of the petitioner detenu raised manifold contentions. Relying upon the decisions of this Court (Coram : J.R.Vora,J) in Special Civil Application Nos.5873 of 2005 and 6530 of 2005, Mr.Vyas has submitted that this Court (Coram: J.R.Vora,J) has released the co-detenu Mr.Ambalal @ Roshanlal Mangillal Khatri and Madanbhai Hirabhai Marwadi vide judgment and order dated 28.4.2005 and 12.5.2005 and hence, the present petitioner is also required to be released.

5. On the other hand, learned advocates appearing for the respondents do not dispute that the case of the petitioner stands at par with the case of the co-detenu Mr.Ambalal @ Roshanlal

Mangillal Khatri and Madanbhai Hirabhai Marwadi.

6. Heard the learned advocates for the parties.

7. Considering the judgments referred to above and in the facts and circumstances, it appears that the case of the present petitioner is squarely covered by the decisions of this Court referred to above and hence, the present petition deserves to be allowed.

8. In view of what is stated above, the petition is allowed. The order of detention dated 18.03.2005 is quashed and set aside. The detenu Madanlal Thanaji Khichi is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly. Direct service is permitted.

(SHARAD D DAVE, J)

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